

REMARKS/ARGUMENTS

Prior to entry of this amendment, claims 1-13 and 16-25 were pending in this application. Claims 1, 7, and 16 have been amended, no claims have been added, and claims 23-25 have been canceled herein. Therefore, claims 1-13 and 16-22 are now pending. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

Claim Objections

The Office Action objected to claim 7 for certain informalities. The Applicants thank the Examiner for his careful reading of the claims and finding the informalities. Accordingly and for the sake of expediency in moving this matter toward allowance, the Applicants has made an amendment herein to address the objections and change formal matters as suggested by the Office Action. The amendment is thought to fully address the objections as outlined by the Office Action. Therefore, the Applicants respectfully request withdrawal of the objections.

35 U.S.C. § 112 Claim Rejection, Written Description Requirement

The Office Action has rejected claims 23-25 under 35 U.S.C. .§ 112, first paragraph, as failing to comply with the written description requirement. While the Applicants do not necessarily agree with the rejection, claims 23-25 have been canceled herein thereby rendering the rejection moot. Therefore, the Applicants respectfully request withdrawal of the rejection.

35 U.S.C. § 102 Rejection, Ojha

The Office Action rejected claim1, 10, 11, 19, 20, and 23 under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent Pub. No. 2002/0152104 of Ojha et al. (hereinafter

“Ojha”). The Applicant respectfully submits the following arguments pointing out significant differences between claim 1 submitted by the Applicants and Ojha.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully argue that Ojha fails to disclose each and every claimed element. For example, Ojha fails to disclose, either expressly or inherently, a synchronization program synchronizing a new supply plan with a current supply plan while continuing to process orders. Furthermore, Ojha fails to disclose, expressly or inherently, an available-to-promise system or other system using such a synchronization as part of a process to replace a supply plan in use by the ATP system.

As noted previously, Ojha is directed to “planning and scheduling, and more particularly to synchronization of planning information in a high availability planning and scheduling architecture.” (paragraph 2) However, the Applicants maintain that Ojha does not disclose, expressly or inherently, a synchronization program synchronizing a new supply plan with a current supply plan while continuing to process orders. Furthermore, Ojha does not disclose, expressly or inherently, an available-to-promise system or other system using such a synchronization as part of a process to replace a supply plan in use by the ATP system. Rather, Ojha is directed to replacing the systems, not supply plans used in any one of the systems. In fact, Ojha explicitly describes and requires replacement of one HA system with another HA system.

In response to this argument, the Office Action continues to rely on Ojha and argues that under Ojha “ATP supply information and/or other appropriate planning information generated by on or more planning engines 80 may be communicated to the DF engine 22 in each HA system 20 in replacement HA system group 70b **before that system group goes on-line** to

become the operating HA system group 70a.” (Office Action page 17, emphasis added) The Office Action also argues that:

“When this ATP supply information or other planning information is generated, the information currently stored in memory by HA systems 20 in operating HA system group 70a needs to be updated. Since it is preferable to perform this updating while HA systems 20 in HA system group 70a are off-line, architecture 10 provides a mechanism to allow operating HA system group 70a to be seamlessly replaced by replacement HA system group 70b, which has already received and stored the updated planning information from planning engine 80.” (Office Action page 17)

In other words, the Office Action seems to argue that Ojha describes updating one HA system while it is off-line, replacing another, on-line system with the updated system, taking that second system off-line, and then updating the second system while it is off-line, i.e., no longer processing orders. Thus, the Applicants respectfully maintain that Ojha does not and cannot reasonably be considered to disclose, expressly or inherently, a synchronization program synchronizing a new supply plan with a current supply plan while continuing to process orders. Furthermore, Ojha does not disclose, expressly or inherently, an available-to-promise system or other system using such a synchronization as part of a process to replace a supply plan in use by the ATP system as recited in the pending claims. For at least these reasons, the Applicants respectfully request withdrawal of the rejection.

35 U.S.C. § 103 Rejection, Ojha and further in view of Bush

The Office Action has rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Ojha as applied to claim 1 above, and further in view of U.S. Patent No. 6,486,899 to Bush Jr. (hereinafter “Bush”). The Applicants respectfully traverse the rejection for at least the reason that claim 2 depends on an allowable base claim as discussed in detail above. For at least these reasons, the Applicants respectfully request that the rejection be withdrawn.

35 U.S.C. § 103 Rejection, Ojha and further in view of AMR Consulting

The Office Action has rejected claims 3-5 under 35 U.S.C. § 103(a) as being unpatentable over Ojha as applied to claim 1 above, and further in view of a publication entitled *Planning for Tomorrow: A Tactical Approach to Supply Chain Innovation*, AMR Consulting © 2002 (hereinafter “AMR Consulting”). The Applicants respectfully traverse the rejection for at least the reason that claims 3-5 depend on an allowable base claim as discussed in detail above. For at least these reasons, the Applicants respectfully request that the rejection be withdrawn.

35 U.S.C. § 103 Rejection, Ojha and further in view of Brichta

The Office Action has rejected claims 6, 7, 21, 22, 24, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Ojha as applied to claim 1 above, and further in view of U.S. Patent No. 5,864,483 to Brichta (hereinafter “Brichta”). The Applicants respectfully traverse the rejection for at least the reason that claims 6 and 7 depend on an allowable base claim as discussed in detail above. For at least these reasons, the Applicants respectfully request that the rejection be withdrawn.

35 U.S.C. § 103 Rejection, Ojha and further in view of Syed

The Office Action has rejected claims 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Ojha as applied to claim 1 above, and further in view of U.S. Patent No. RE39,549 to Syed et al. (hereinafter “Syed”). The Applicants respectfully traverse the rejection for at least the reason that claims 8 and 9 depend on an allowable base claim as discussed in detail above. For at least these reasons, the Applicants respectfully request that the rejection be withdrawn.

35 U.S.C. § 103 Rejection, Ojha and further in view of Aram

The Office Action has rejected claims 12, 13, and 16-18 under 35 U.S.C. § 103(a) as being unpatentable over Ojha as applied to claim 1 above, and further in view of U.S. Patent Pub. No. 20020072988 of Aram (hereinafter “Aram”). The Applicants respectfully traverse the rejection for at least the reason that claims 12 and 13 depend on an allowable base claim as discussed in detail above. For at least these reasons, the Applicants respectfully request that the rejection be withdrawn.

Regarding claims 16-18, the Applicants respectfully contend as detailed above, that Ojha does not teach or suggest stopping synchronization of orders of the first plurality of customer requests prior to synchronizing all the orders of the first plurality of customer requests. The Applicants further contend that Aram fails to correct this deficiency. Aram is directed to “systems and methods for managing the acquisition and supply of goods and/or services and for demand planning” that “assists a supplier in planning inventory management, allows a supplier to predict when there is risk of letting a customer down, and allows a supplier to estimate the effect of a batch of work-in-progress not being completed.” (paragraphs 2 and 8) However, Aram does not teach or suggest, alone or in combination with Ojha, stopping synchronization of orders of the first plurality of customer requests prior to synchronizing all the orders of the first plurality of customer requests. Rather, Aram is silent with regard to any type of synchronization process(es).

Furthermore, neither Ojha nor Aram teach or suggest, alone or in combination, an available-to-promise system or other system using such a synchronization as part of a process to replace a supply plan in use by the ATP system. Rather, Ojha is directed to replacing the systems, not supply plans used in any one of the systems. In fact, Ojha explicitly describes and requires replacement of one HA system with another HA system. See for example FIG. 5 of Ojha and the accompanying description at paragraphs 46-50 describing the process of replacing one HA system with another HA system and paragraph 52 describing some of the purported

advantages of such an approach. Thus, not only does Ojha not anticipate an available-to-promise system or other system using such a synchronization as part of a process to replace a supply plan in use by the ATP system, but the Applicants respectfully contend that Ojha actually teaches away from synchronizing and replacing a supply plan within a given system. Therefore, the combination of Ojha and Aram is improper. For at least these reasons, the Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

/William J. Daley/
William J. Daley
Reg. No. 52,471

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
WJD:jep
62995648 v1